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RONISHA TOLLIVER

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

RONISHA TOLLIVER,)	Case No.: 8:15-cv-417
)	
Plaintiff,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
v.)	(Unlawful Debt Collection Practices)
)	
WELLS FARGO BANK, N.A.,)	
)	
Defendant.)	

RONISHA TOLLIVER (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against WELLS FARGO BANK, N.A. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 *et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this Court over Counts I of Plaintiff's Complaint arises pursuant to 28 U.S.C. § 1331, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained herein.
4. Defendant conducts business in the State of California thereby establishing personal jurisdiction.
5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in San Bernardino, San Bernardino County, California.
7. Defendant is a business entity with a principal place of business in San Francisco, California.
8. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

9. In or around 2014, Defendant began constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
10. Plaintiff's alleged debt arose through a consumer credit transaction.
11. Defendant places collection calls from telephone numbers, including, but not limited to, 877-647-8552.
12. Defendant places collection calls to Plaintiff's cellular telephone at phone number 909-714-37XX.
13. Base upon the timing and frequency of Defendant's calls and per its prior business practices, each of Defendant's calls were placed using an automatic telephone dialing

1 system.

2 14. In or around September of 2014, Defendant began placing multiple daily collection calls
3 to Plaintiff.

4 15. In or around September of 2014, Plaintiff spoke to Defendant's representative, "Chris"
5 and informed him that the debt Defendant was attempting to collect was due to a
6 fraudulent transaction.

7 16. In or around October of 2014, Plaintiff again spoke to Defendant's representative, again
8 informed Defendant's representative that she did not incur the debt Defendant was
9 attempting to collect, and requested that Defendant cease calling her cellular telephone.

10 17. Plaintiff revoked any consent, express, implied or otherwise, to receive automated
11 collection calls from Defendant in the course of the telephone conversation in or around
12 October of 2014.

13 18. Despite Plaintiff's request to cease, Defendant continued to place multiple collection
14 calls to Plaintiff on a daily basis.

15 19. Defendant placed at least sixty-seven (67) collection calls to Plaintiff over an
16 approximate two-month period.

17 **COUNT I**

18 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

19 20. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
20 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every
21 violation pursuant to 47 U.S.C. § 227(b)(3)(B).

22 21. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
23 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
24 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47
25 U.S.C. § 227(b)(3)(C).

1 Wherefore, Plaintiff, RONISHA TOLLIVER, respectfully requests judgment be entered
2 against Defendant, WELLS FARGO BANK for the following:

3 22. Statutory damages of \$500.00 for each and every negligent violation of the TCPA
4 pursuant to 47 U.S.C. § (b)(3)(B);

5 23. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of
6 the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

7 24. All court costs, witness fees and other fees incurred; and

8 25. Any other relief that this Honorable Court deems appropriate.

9
10 **COUNT II**
11 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION**
12 **PRACTICES ACT**

13 26. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as
14 the allegations in Count II of Plaintiff's Complaint.

15 27. Defendant violated the RFDCPA based on the following:

16 a. Defendant violated § 1788.11(d) of the RFDCPA by causing a telephone to ring
17 repeatedly or continuously to annoy the person called;

18 b. Defendant violated § 1788.11(e) of the RFDCPA by communicating with
19 Plaintiff with such frequency as to be unreasonable and to constitute a
20 harassment to Plaintiff.

21 c. Defendant violated § 1788.17 of the RFDCPA by failing to comply with the Fair
22 Debt Collection Practices, Act, 15 U.S.C. § 1692 *et seq.*, to wit:

23 1. Defendant violated §1692d of the FDCPA by engaging in conduct the
24 natural consequence of which is to harass, oppress, or abuse Plaintiff;

25 2. Defendant violated §1692d(5) of the FDCPA by causing a telephone to
ring repeatedly or continuously with intent to annoy, harass, or abuse

1 Plaintiff.

2 WHEREFORE, Plaintiff, RONISHA TOLLIVER, respectfully requests judgment be
3 entered against Defendant, WELLS FARGO BANK for the following:

4 28. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt Collection
5 Practices Act, Cal. Civ. Code §1788.30(b),

6 29. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection
7 Practices Act, Cal. Civ Code § 1788.30(c), and

8 30. Any other relief that this Honorable Court deems appropriate.

9 RESPECTFULLY SUBMITTED,
10 DATED: March 16, 2015
11 KROHN & MOSS, LTD.

12 By: /s/ Ryan Lee
13 Ryan Lee
14 Attorney for Plaintiff

15
16 **DEMAND FOR JURY TRIAL**

17 PLEASE TAKE NOTICE that Plaintiff, RONISHA TOLLIVER, demands a jury trial in
18 this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF CALIFORNIA

Plaintiff, RONISHA TOLLIVER, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RONISHA TOLLIVER, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: Feb 13, 2015

RONISHA TOLLIVER
RONISHA TOLLIVER (Feb 13, 2015)

RONISHA TOLLIVER